



National Science Foundation • Office of Inspector General

2415 Eisenhower Avenue, Alexandria, Virginia 22314

October 18, 2019

Karl Pensworth
81759-73729461@requests.muckrock.com

Via E-mail

FOIA Request No. F-20-002

Dear Mr. Pensworth:

You filed a request under the Freedom of Information Act (FOIA), 5 USC § 552. The National Science Foundation Office of Inspector General (NSF OIG) received the request on October 15, 2019 and assigned to it the following number: F-20-002. In your own words, you seek the following:

Any and all available records pertaining to the DARPA Restoring Active Memory (RAM) program, co-operative agreement: N66001-14-2-4032 and/or any, all, or any combination of the following National Institute of Health and National Science Foundation grant codes:

- NIH R01 NS099348
- NSF BCS-1441502
- NSF BCS-1631550

In particular, please provide:

- 1) The Statement of Work/Scope on each sub-program or full contract with each contract-awardee or winning offeror company or institution, and the full Statement of Work included with each contract;*
- 2) Complete Documentation of Informed Consent from all human subjects utilized by or involved with this program in any way, including:*
 - 2. a) The FWA (Federal Wide Assurance) signed off by the Office of Human Research Protections, Department of Health and Human Services.*
 - 2. b) Detailed Informed Consent documents including lists of consenting human subjects, specific information provided to human subjects, and signed documents from human subjects attesting to Informed Consent.*
 - 2. c) Any additional internal CIA document assuring compliance with the Common Rule signed off by the Institutional Review Board involved.*

2. d) *All affirmations of Compliance Oversight from the Office of Human Subject Research Protections.*
2. e) *All Waivers of Consent from the Secretary of Defense or any other federal agency, as applicable, including the full reasons for these waivers.*
- 3) *Complete Documentation with precise details on Location and Field of Operation where scientific instruments and/or weapons are being utilized or tested, "wittingly" or "unwittingly," overtly or covertly, on human beings--namely US immigrants, citizens or any individuals present in the USA whether temporarily or permanently, currently or formerly.*

In response to this request, NSF OIG conducted a search of audit and investigative records. Regarding audit records, there was an NSF OIG audit (report number 19-1-013) at the University of Pennsylvania, the scope of which involved multiple awards, including NSF BCS-1441502 and NSF BCS-1631550. To the extent that your request seeks any and all available records pertaining to those two awards, this report is minimally responsive to that more general aspect of your request. The report is not, however, responsive to any of the more detailed particulars in your request. You may nevertheless read what is publicly available in that report by using the following link: https://www.nsf.gov/oig/_pdf/19-1-013_University%20of%20Pennsylvania.pdf.

To be clear, the specific level of detail which you seek is not part of the records maintained at the NSF OIG. In other words, NSF OIG's records do not specifically address the level of detailed particulars in your request. Some of that information may, however, be maintained at the NSF (rather than the NSF OIG). Accordingly, you may wish to file a FOIA request with NSF, which has a separate FOIA office. To file a FOIA request with NSF, please refer to the following link: <https://www.nsf.gov/policies/foia.jsp>.

As for responsive investigative records, please note that NSF OIG is unable to confirm or deny the existence of records responsive to your request. Without consent, proof of death, official acknowledgement of an investigation, or an overriding public interest, confirming or denying the existence of law enforcement records concerning an individual would constitute a clearly unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(7)(C).

If you seek further assistance or wish to discuss any aspect of your request, please contact me, the OIG's FOIA Public Liaison, at (703) 292-7100 or foiaoig@nsf.gov. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road – OGIS, College Park, MD 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1(877) 684-6448; or facsimile at (202) 741-5769.

If you are not satisfied with the OIG's response to your request, you may administratively appeal by writing to the Counsel to the Inspector General, Kenneth Chason, Office of the Inspector General, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. Alternatively, you may appeal directly to the General Counsel of the Foundation, at the same

address.¹ Your appeal must be postmarked or electronically transmitted within 90 days from the date of this response.

Additionally, please note that Congress has excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Sincerely,

/s/

Elizabeth Sweetland
Assistant Counsel to the Inspector General
National Science Foundation
Office of Inspector General

¹ For appeals to NSF's General Counsel, note the requirements of 45 C.F.R. § 612.9(a): "You must make your appeal in writing and it must be received by the Office of the General Counsel within ten days of the receipt of the denial (weekends, legal holidays, and the date of receipt excluded). Note that this 10-day time period has been superseded by recent legislation enacting a 90-day time period, referenced above. Clearly mark your appeal letter and the envelope 'Freedom of Information Act Appeal.' Your appeal letter must include a copy of your written request and the denial together with any written argument you wish to submit."